

Program Description

April 2003

Farm and Ranch Lands Protection Program

Overview

The Farm and Ranch Lands Protection Program (FRPP) is a voluntary program that helps farmers and ranchers keep their land in agriculture and prevents conversion of agricultural land to non-agricultural uses. The program provides matching funds to State, Tribal, and local governments and non-governmental organizations with existing farmland protection programs to purchase conservation easements. These entities purchase easements from landowners in exchange for a lump sum payment, not to exceed the appraised fair market value of the land's development rights. The easements are perpetual easements.

Authority

FRPP is authorized by the Food Security Act of 1985, as amended. FRPP is reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). The Secretary of Agriculture delegated the authority for FRPP to the Chief of the Natural Resources Conservation Service (NRCS), who is a vice president of the Commodity Credit Corporation (CCC).

Scope

FRPP is available in all 50 States, the Caribbean Area (Puerto Rico and the Virgin Islands), and the Pacific Basin Area (Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). To participate in FRPP, NRCS State offices must submit a State FRPP plan.

How FRPP Works

The CCC, through NRCS, requests proposals from Federally recognized Indian Tribes,

States, units of local government, and non-governmental organizations to cooperate in the acquisition of conservation easements on farms and ranches. Once an entity is selected, the NRCS State conservationist enters into a cooperative agreement with, and obligates money to, the entity. The entity works with the landowner, processes the easement acquisition, and holds, manages, and enforces the easement. The Federal share of any easement acquisition is limited to a maximum of 50 percent of the appraised fair market value of the conservation easement. A contingent right interest in the property must be incorporated in each easement deed for the protection of the Federal investment.

Eligibility

Land. Entire farms or ranches may be enrolled in FRPP. The farmland or ranch land must contain at least 50 percent of prime, unique, Statewide, or locally important soil or contain historic or archaeological sites. These lands also must be subject to a pending offer from an eligible entity for the purpose of limiting conversion of the land to non-agricultural uses. Eligible land includes cropland, rangeland, grassland, pasture land, and forest land that is part of an agricultural operation. Incidental land that otherwise would not be eligible may be considered eligible as part of a pending offer, if inclusion would significantly augment protection of the associated eligible farm or ranch land.

The lands must also be owned by landowners who certify that they do not exceed the Adjusted Gross Income (AGI) limitation. The AGI provision of the 2002 Farm Bill impacts eligibility for FRPP and several other 2002

Farm Bill programs. Individuals or entities that have an average AGI exceeding \$2.5 million for the three tax years immediately preceding the year the contract is approved are not eligible to receive program benefits or payments. However, an exemption is provided in cases where 75 percent of the AGI is derived from farming, ranching, or forestry operations. The final rule for this provision has not yet been published.

Farms or ranches with historical or archaeological resources must meet the following criteria:

- Be listed in the National Register of Historic Places (established under the National Historic Preservation Act (NHPA), 16 USC 470, et seq.); or
- Be formally determined eligible for listing in the National Register of Historic Places by the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer and the Keeper of the National Register in accordance with Section 106 of the NHPA); or
- Be formally listed in the State or Tribal Register of Historic Places of the SHPO or the Tribal Register of Historic Places.

Entity. An eligible entity must be a Federally recognized Indian Tribe, State or local agency (including farmland protection boards or land resource councils established under State law), or a non-governmental organization that:

- Is organized principally for the preservation of land for recreation, open space, historical preservation, and natural habitat; and
- Is operated exclusively for charitable, religious, or educational purposes, with no part of its net earnings paid to any private shareholder or individual and no substantial part of its activities influencing legislation or intervening in any political campaign for or against a candidate for public office; and

- Normally receives more than one-third of its support in each tax year from any combination of gifts, grants, contributions, or membership fees, and normally receives not more than one-third of its support in each tax year from the sum of gross investment income.

In addition to demonstrating land and entity eligibility, entities wishing to receive FRPP funds must demonstrate:

- A commitment to long-term conservation of agricultural lands;
- The capability to acquire, manage, and enforce easements and other interest in land;
- Staff capacity that would be dedicated to monitoring easement stewardship; and
- The availability of funds.

Funding

The NRCS share of the conservation easement cannot exceed 50 percent of the appraised fair market value. As part of its share of the cost of purchasing a conservation easement, a cooperating entity may include a charitable donation by the landowner not to exceed 25 percent of the appraised fair market value of the conservation easement. The cooperating entity shall provide, in cash, 25 percent of the appraised fair market value or 50 percent of the purchase price.

Defining a Pending Offer

A pending offer is a written bid, contract, commitment, or option extended to a landowner by an eligible entity to acquire a conservation easement or other interest in land to limit non-agricultural uses of the land before the legal title to these rights has been conveyed. Pending offers must be for the primary purpose of protecting topsoil by limiting conversion to non-agricultural uses. Pending offers with signed appraisals by State certified appraisers shall receive higher funding priority by the NRCS State conservationist.

Application Process

The FRPP application process consists of the following steps:

1. A landowner submits an application to an eligible non-governmental organization or State, Tribal, or local government that has an existing farm or ranch land protection program.
2. When funds are available, NRCS publishes a Request for Proposals (RFP) in the Federal Register to solicit funding proposals from eligible entities with existing farm or ranch land protection programs.
3. Eligible entities submit proposals to work with NRCS to acquire conservation easements on productive farm and ranch land.
4. The NRCS State conservationist receives proposals by the date specified in the RFP.
5. The NRCS State conservationist determines entity and land eligibility.
6. The NRCS State conservationist may consult with the State Technical Committee to rank the parcels based on the State FRPP plan, Land Evaluation Site Assessment (LESA) system, or similar land evaluation system used to evaluate parcels.
7. The NRCS State conservationist makes awards to eligible entities based on the funds provided by the NRCS National office. NRCS enters into cooperative agreements with the selected entities.
8. Following cooperative agreement signature by NRCS and the selected entity, funds may be obligated to the entity, and the entity may begin to purchase conservation easements.

Determining National FRPP Allocations

FRPP is available in those States, the Caribbean Area, and Pacific Basin Area that

submit an NRCS State FRPP plan to the NRCS National office. The State conservationist or director is responsible for developing a State FRPP plan. The plan should be developed with advice from the State Technical Committee or its farm or ranch land protection subcommittee, which is made up of representatives from State and local farmland protection programs, including non-governmental organizations.

A State FRPP plan is submitted to the NRCS National office at least every three years, or more often if conditions change.

At a minimum, the State FRPP plan contains the following National criteria:

- Acreage of prime, unique, and important farmland estimated to be protected;
- Acreage of prime, unique, and important farmland lost;
- Number or acreage of historic and archaeological sites estimated to be protected on farm or ranch lands;
- Degree of development pressure;
- Percentage of funding guaranteed by cooperating entities;
- History of cooperating entities commitments to conservation;
- Participating entities histories of acquiring, managing, holding, and enforcing easements (including annual farmland protection expenditures, accomplishments, and staff);
- Amount of FRPP dollars requested; and
- Participating entities estimated unfunded conservation easements on prime, unique, and important farm and ranch land acres.

The State FRPP plan includes ranking considerations used by the State, including the National criteria (above) and other State ranking criteria. The criteria include, but are not limited to, proximity to protected clusters of farmland, viability of the agricultural operations, parcel size, type of land use,

maximum cost expended per acre, degree of leveraging by the entity, and proof of appraisals. State ranking criteria are developed on a State-by-State basis and are available through the NRCS State conservationist to interested participating entities prior to the proposal submission deadline.

Criteria Used to Evaluate Proposals

Each State develops ranking criteria to ensure consistent and efficient FRPP implementation. The ranking criteria enable the State conservationist to prioritize proposals and determine parcels that merit FRPP enrollment.

The State conservationist, with advice from the State Technical Committee, establishes a weighted ranking system. Priority is given to easements that protect the Nation's most threatened prime, unique, and important farmland or historical and archaeological sites on farm and ranch land. In evaluation of proposals and parcels, at least 50 percent of the weight is based on the National criteria. The remaining weight is based on State criteria contained in the State FRPP plan, LESA system, or a similar land evaluation system approved by the State conservationist.

Priority also is given to:

- Easements acquired by entities that have extensive experience in managing and enforcing easements, adequate staff to manage stewardship responsibilities, and sufficient oversight requirements;
- Lands and locations that link to other Federal, Tribal, State, local, or non-governmental organizations' efforts with complementary farmland protection objectives (e.g., open space, watershed and wildlife protection);
- Lands that provide special social, economic, and environmental benefits to the region; and
- Geographic regions where the enrollment of particular lands may help achieve National, State, and regional goals and objectives.

Cooperative Agreements

Once selected, entities work with the appropriate NRCS State conservationist to finalize and sign cooperative agreements, incorporating all necessary FRPP requirements. A cooperative agreement is the legal contract with which the Federal government establishes partnerships with the entities. The cooperative agreement:

- Identifies the easement holder;
- Includes management and enforcement responsibilities by the easement holder and NRCS;
- Includes a reversionary clause regarding the Federal government's rights to the land if the easement holder fails to manage the easement;
- Contains conservation plan requirements for highly erodible land; and
- Includes indemnification language releasing NRCS from any fiscal responsibilities, such as costs, damages, claims, liabilities, and judgments incurred by the landowner or cooperating entity.

Conservation Easements

In exchange for payment, participating landowners agree not to convert their land to non-agricultural uses and to develop and implement a conservation plan for any highly erodible land. Landowners are paid fair market value. The fair market value of a conservation easement is determined using standard real property appraisal methods.

The conveyance document (e.g., conservation easement deed) used by the eligible entity must be reviewed and approved by the NRCS National office before being recorded. Since

title to the easement is held by an entity other than the United States, the conveyance document must contain a clause that all rights conveyed by the landowner under the document will become vested in the United States should the cooperating entity (i.e., the grantee) abandon or attempt to terminate the conservation easement.

For More Information

If you need more information about FRPP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at:
<http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:
<http://www.usda.gov/farmbill>

Note: This is not intended to be a definitive interpretation of farm legislation. Rather, it is preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.